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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/644,937	08/21/2003	Jae Seung Lee	1594.1272	7379

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EXAMINER	
DOERRLER, WILLIAM CHARLES	
ART UNIT	**PAPER NUMBER**
3744	

DATE MAILED: 10/13/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/644,937	LEE ET AL.	
	Examiner	Art Unit	
	William C. Doerrler	3744	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☐ Responsive to communication(s) filed on _____.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) 1-50 is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) 1-50 is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on 21 August 2003 is/are: a)☒ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☒ All b)☐ Some * c)☐ None of:

1.☒ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date 1-3-05,8-21-03.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

Priority

Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1,2,10,24,48 are rejected under 35 U.S.C. 102(b) as being anticipated by Constantini et al (3,178,902).

Constantini et al '902 shows in figure 9 a refrigerator having an air cooling section extending up the rear of the housing with a front -top mounted machine room.

Claims 1,2,10,24,48 are rejected under 35 U.S.C. 102(b) as being anticipated by Bauman et al (6,070,424).

Bauman et al shows in figure 1 a refrigerator having an air cooling section extending up the rear of the housing with a front -top mounted machine room.

Claims 1,2,3,10,24,48 are rejected under 35 U.S.C. 102(b) as being anticipated by Maynard et al (3,712,078).

Maynard et al shows in figure 6 a refrigerator having an air cooling section extending up the rear of the housing with a front -top mounted machine room.

Claims 1,2,10,11,24,48 and 49 are rejected under 35 U.S.C. 102(b) as being anticipated by Gidseg (4,776,182).

Gidseg shows in figures 1 and 3, a refrigerator having an integral rear extension which houses the evaporator and fan to circulate cold air, as well as a front mounted compressor compartment.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

Claims 4-7 are rejected under 35 U.S.C. 103(a) as being unpatentable over any one of Maynard et al, Gidseg, Bauman et al or Constantini et al '902 in view of the European patent from the IDS (Watanabe, EP 1,174,666).

Maynard et al, Gidseg, Bauman et al and Constantini et al '902 each disclose applicants' basic inventive concept, a refrigerator with a rear extension for the air cooling device and a front machine room, substantially as claimed with the exception of using a cross flow fan above the evaporator to provide the cold air flow. Watanabe shows this feature to be old in the refrigerator air flow art. It would have been obvious to one of ordinary skill in the art at the time of applicant's invention fro the teaching of Watanabe to modify any one of Gidseg, Bauman et al, Maynard et al or Constantini et al '902 by using a top mounted cross flow fan to provide sufficient cold air flow throughout the refrigerator compartment.

Claims 8 and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over any one of Maynard et al, Gidseg, Bauman et al or Constantini et al '902 in view of Silva (5,284,023)).

Maynard et al, Gidseg, Bauman et al and Constantini et al '902 each disclose applicants' basic inventive concept, a refrigerator with a rear extension for the air cooling device and a front machine room, substantially as claimed with the exception of using a hinged cover for the machine room. Silva shows this feature to be old in the refrigerator air flow art. It would have been obvious to one of ordinary skill in the art at the time of applicant's invention fro the teaching of Silva to modify any one of Gidseg, Bauman et al, Maynard et al or Constantini et al '902 by using a hinged cover for the compressor compartment to provide easy access for maintenance.

Claims 11-19,22,23,25-30,32-41,46,47,49 and 50 are rejected under 35 U.S.C. 103(a) as being unpatentable over any one of Maynard et al, Gidseg, Bauman et al or Constantini et al '902 in view of Constantini et al (3,122,899).

Maynard et al, Gidseg, Bauman et al and Constantini et al '902 each disclose applicants' basic inventive concept, a refrigerator with a rear extension for the air cooling device and a front machine room, substantially as claimed with the exception of providing an air cooling unit for both a freezer and a refrigerator. Constantini et al '899 shows this feature to be old in the top mounted machine room and air circulation device art. It would have been obvious to one of ordinary skill in the art at the time of applicant's invention fro the teaching of Constantini et al '899 to modify any one of Gidseg, Bauman et al, Maynard et al or Constantini et al '902 by using a top mounted air cooler for both a refrigerator and a freezer to provide efficient two temperature cooling for separate compartments. In regard to claims 14 and 16, figure 5 of Constantini et al '899 shows a partition plate separating air inlet 42 from air outlet 43.

Claims 20,21 and 42-45 are rejected under 35 U.S.C. 103(a) as being unpatentable over Maynard et al, Gidseg, Bauman et al and Constantini et al '902 in view of Constantini et al '899 as applied to claims 12-19,22,23,25-30,32-41,46,47,49 and 50 above, and further in view of Montes.

Maynard et al, Gidseg, Bauman et al and Constantini et al '902, each as modified, disclose applicants ' basic inventive concept, a freezer/refrigerator with an upper machine compartment used to provide cooling to an upper cooling air system which provides cold air to both the freezer and refrigerator, substantially as claimed with the

exception of using panels with interlocking tabs and grooves for the sides of the refrigerator. Montes shows this feature to be old in the insulated panel art. It would have been obvious to one of ordinary skill in the art at the time of applicants' invention from the teaching of Montes to use interlocking panels for the sides of the refrigerator to provide a device which is quickly assembled, yet prevents the flow of air between panels.

Claim 31 is rejected under 35 U.S.C. 103(a) as being unpatentable over Maynard et al, Gidseg, Bauman et al and Constantini et al '902 in view of Constantini et al '899 as applied to claims 12-19,22,23,25-30,32-41,46,47,49 and 50 above, and further in view of Silva.

Maynard et al, Gidseg, Bauman et al and Constantini et al '902, each as modified, disclose applicants ' basic inventive concept, a freezer/refrigerator with an upper machine compartment used to provide cooling to an upper cooling air system which provides cold air to both the freezer and refrigerator, substantially as claimed with the exception of using a cross flow fan. Silva shows this feature to be old in the refrigerator and freezer art. It would have been obvious to one of ordinary skill in the art at the time of applicants' invention from the teaching of Silva to use a cross flow fan to provide sufficient airflow in a relatively flat outline.

Double Patenting

The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA

1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

Claims 1-16,24-36 and 48-50 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-18 of U.S. Patent No. 6,735,976. Although the conflicting claims are not identical, they are not patentably distinct from each other because the current claims differ only in the use of synonymous language which one of ordinary skill I the art would recognize to be equivalent terms. For example, in claim 1, "provided with a storage compartment" in the patent is clearly the same as "defining a storage compartment" in the present case. Likewise "a projecting part upwardly projected from a predetermined position on an upper portion" would obviously be seen as the same as " a top projection part". It would have been obvious to one of ordinary skill in the art that the new claims listed above are claiming the same invention as the previous patent with only grammatical differences which do not appreciably change the scope of the claims.

Claims 17-23 and 37-47 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-18 of U.S. Patent No. 6,735,976 in view of Montes. Applicants' prior patent claims the same inventive concept, a refrigerator/freezer having a top mounted air cooling and circulation system extending from the cooled interior behind a front machine compartment, with the

exception of forming the sides from interlocking panels. Montes shows the use of interlocking tongue and groove panels to be old I the refrigeration device art. It would have been obvious to one of ordinary skill in the art at the time of applicants' invention fro the teaching of Montes to modify the earlier claims by forming the sides from interlocking panels to provide sides which are quickly and easily assembled, yet prevent the passage of air through the walls.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Kawakami shows a refrigerator with an upper machine compartment and cold air circulator. Haberman, Melcher and Finkelstein show interlocking panels for the sides of refrigerated compartments.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to William C. Doerrler whose telephone number is (571) 272-4807. The examiner can normally be reached on Monday-Friday 6:30-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Cheryl Tyler can be reached on (571) 272-4834. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

William C Doerrler
Primary Examiner
Art Unit 3744

WCD